

Order

Michigan Supreme Court
Lansing, Michigan

November 21, 2008

Clifford W. Taylor,
Chief Justice

136509

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

LAWRENCE TERLECKI and MARGARET
TERLECKI,
Plaintiffs-Appellants,

v

SC: 136509
COA: 272541
Cheboygan CC: 05-007498-NZ

SILVER LAKE PROPERTY ASSOCIATION
OF INDIAN RIVER, MARK W. STEPHENS,
ROBERT NIKOLAS, and MARY DOE,
Defendants-Appellees,

and

RANDY STEWART and GREAT LAKES
MARINE CONSTRUCTION, INC.,
Defendants.

On order of the Court, the application for leave to appeal the April 22, 2008 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

CAVANAGH, J., would grant leave to appeal.

WEAVER, J. (*dissenting*).

I dissent from the order by the majority of four (Chief Justice Taylor and Justices Corrigan, Young, and Markman) to deny leave to appeal in this case. I voted to grant the application for leave to appeal because I dissented from the decision of the majority of four in *Trentadue v Buckler Automatic Lawn Sprinkler Co*, 479 Mich 378, 407-408 (2007) (Weaver, J., *dissenting*) to eliminate the common-law practice of tolling accrual based on discovery.

Under *Johnson v Caldwell*, 371 Mich 368, 379 (1963), a statute of limitations does “not start to run until the date of *discovery*, or the date, when by the exercise of *reasonable care*, plaintiff should have discovered the wrongful act.” (emphasis added). Because I believe that the majority of four erred in overruling *Johnson v Caldwell*, I would grant leave to appeal in this case to consider the correctness of the decision in *Trentadue*.

KELLY, J., joins the statement of WEAVER, J.



s1118

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 21, 2008

A handwritten signature in cursive script that reads "Corbin R. Davis".

Clerk